

Message Text

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ACTION SCI-06

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E.O. 11652: N/A

TAGS: SENV, PFOR, JA, US

SUBJ: US-JAPAN ENVIRONMENTAL AGREEMENT

REF: TOKYO 2606

SUMMARY: FONOFF HAS INFORMALLY TRANSMITTED GOJ COUNTERDRAFT OF PROPOSED ENVIRONMENTAL AGREEMENT. PRINCIPAL SUBSTANTIVE CHANGES ARE MODIFICATION US DRAFT ARTICLE IV - ECONOMIC PROVISIONS - TO STANDARDS AND "POLLUTER PAYS PRINCIPLE," AND MODIFICATION OF TERMINATION ARTICLE TO PROVIDE FOR TWO-YEAR TERM AUTOMATICALLY RENEWABLE. ACTION REQUESTED: PROVIDE EMBASSY WITH US COMMENTS ON RECEIPT OF FULL TEXT, WHICH BEING POUCHED. END SUMMARY.

1. YUKINORI WATANABE, HEAD, FONOFF INTERNATIONAL ECONOMY DIV, ECONOMIC AFFAIRS BUREAU, PROVIDED SCICOUNS TODAY WITH LONG-PROMISED JAPANESE COUNTERDRAFT OF ENVIRONMENTAL COOPERATION AGREEMENT. WATANABE CHARACTERIZED TRANSMITTAL AS STILL "IN-FORMAL" AND NOTED THAT ARTICLE-BY-ARTICLE EXPLANATORY DOCUMENT STILL NOT CLEARED FOR TRANSMITTAL TO USG. JAPANESE DRAFT BEING POUCHED. RESUME OF PRINCIPAL CHANGES FROM US DRAFT, TOGETHER WITH WATANABE'S OBSERVATIONS AND EMBASSY COMMENT, FOLLOWS:

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2. PREAMBLE. IN KEEPING WITH JAPANESE PREFERENCE FOR SHORTER PREAMBLES, JAPANESE VERSION IS CONSIDERABLY SHORTER AND MORE GENERAL.

3. ARTICLE I. GOJ DRAFT OMITTS PHRASE "THROUGH THEIR AGENCEIS" ON GROUNDS THIS IMPLICIT AND PHRASE THEREFORE REDUNDANT, OMMISION, OF COURSE, REFLECTS GOJ SENSITIVITY TO ANY REFERENCE TO STATUS OF INDIVIDUAL AGENCIES.

4. ARTICLE II. THERE IS SOME REORDERING, BUT LITTLE SUBSTANTIVE CHANGE IN SUBPARAGRAPHS OF ARTICLE II, EXCEPT FOR OMISSION OF II (F), REFLECTING SIMILAR SENSITIVITY TO REFERENCES WHICH COULD BE CONSTRUED AS AFFECTING INTERNAL RESPONSIBILITIES OF GOJ AGENCIES.

5. ARTICLE III. WATANABE IDENTIFIED ONLY SUBSTANTIVE CHANGE IN SCOPE THIS ARTICLE AS INCLUSION OF NOISE ABATEMENT AND OMISSION OF RADIOACTIVE SUBSTANCES. HOWEVER, GOJ VERSION ALSO OMITTS DEVELOPMENT OF LOW POLLUTION POWER SYSTEMS.

6. IT IS CLEAR THAT WATANABE'S COMMENTS ARE BASED ON US DRAFT PRIOR TO MODIFICATIONS AGREED TO IN STATE 119531 OF JUNE 20, 1973, WHICH WERE COMMUNICATED TO FONOFF BY EMBASSY ON JULY 6, 1973, TOGETHER WITH EXPLANATION OF US POSITION ON RETENTIONS OF LPPSD.

7. ARTICLE IV. GOJ DRAFT RETAINS AN ARTICLE IV, BUT VIRUTALLY VITIATES ITS EFFTECT. ARTICLE STATES IN PART "TWO GOVTS WILL MAKE COMMON EFFORTS TO SET UP STANDARDS." THUS, ARTICLE CALLS FOR STANDARDS, BUT SAYS NOTHING ABOUT HARMONIZATION OF THESE STANDARDS. WATANABE CHARACTERIZED THIS AS "WATERED-DOWN" VERSION OF US DRAFT OF ARTICLE IV, WHICH IS AN IMPRESSIVE UNDERSTATEMENT. IN SIMILAR VEIN, ENUMERATION OF SUBPARAGRAPHS A-D ELIMINATES CONCEPT OF "AGREED" CRITERIA AND LEVELS, WHILE FINAL PARAGRAPH OF ARTICLE IV OF US DRAFT, INCORPORATING POLLUTER PAYS PRINCIPLE, HAS BEEN OMITTED.

8. SCICOUNS REPEATED US POSITION THAT AGREEMENT WHICH FALLS SHORT OF CONCENSUS REACHED ON OECD PRINCIPLES WOULD BE REGARDED AS STEP BACKWARD AND RISK WIDESPREAD MISUNDERSTANDING. LIMITED OFFICIAL USE

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WATANABE SAID THIS ARGUMENT CONSIDERED WITHIN GOJ, WITHOUT AVAIL. THERE IS NOT DOUBT THAT GOJ DRAFT NOW REFLECTS CONCENSUS OF VARIOUS MINISTRIES ON INCLUSION OF ECONOMIC PROVISIONS, WITH MITI AND EA PRESSING HARDEST FOR OMISSION, BUT WITH FONOFF FINALLY GOING ALONG WITH THIS POSITION. EMBASSY BELIEVES THAT BEST US TACTIC AT THIS STAGE IS TO PROPOSE LANGUAGE FOR ARTICLE IV WHICH SPECIFICALLY REFERENCES OECD PRINCIPLES, THUS NARROWING JAPANESE ARGUMENTS TO SPECIFIC ISSUE OF WHY

BILATERAL AGREEMENT SHOULD NOT REAFFIRM UNDERSTANDINGS ALREADY REACHED IN OECD CONTEXT.

9. ARTICLE V. ARTICLE V OF US DRAFT COMPLETELY ELIMINATED. GUAA TO ALTERNATE MEETING PLACES INCORPORATED IN ARTICLE II. ARTICLE V OF GOJ DRAFT TRACKS ARTICLE VI OF US DRAFT. JAPANESE VI CONFORMS TO US ARTICLE I.

10. ARTICLE VII. GOJ TERMINATION ARTICLE PROPOSES TWO-YEAR TERM AUTOMATICALLY RENEWED ON YEAR-TO-YEAR BASIS UNLESS TERMINATED BY EITHER SIDE. SCICONS EXPLAINED US OBJECTIONS TO SUCH PROVISIONS AND INQUIRED WHETHER SAME SOLUTION PROPOSED BY GOJ FOR TERMINATION ARTICLE OF PROPOSED ENERGY R&D AGREEMENT COULD BE APPLIED TO ENVIRONMENTAL AGREEMENT.

11. DRAFT BEING POUCHED. SHOESMITH

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